



Chesterfield County, Virginia

Memorandum

DATE: JULY 18, 2006

TO: CHESTERFIELD COUNTY PLANNING COMMISSION

FROM: KIRKLAND A. TURNER, DIRECTOR OF PLANNING *KAT*

SUBJECT: ORDINANCE AMENDMENT RELATIVE TO SALE OF ALCOHOLIC BEVERAGES NEAR SCHOOLS

PROPOSED AMENDMENT:

Staff is presenting a proposed Zoning Ordinance amendment pertaining to the sale of alcoholic beverages near schools. The proposed amendment would expand and clarify existing restrictions on sales of alcoholic beverages near certain schools.

RECOMMENDATION:

Discuss the proposed Zoning Ordinance amendment. Staff recommends that the attached amendment be scheduled for public hearing at the August 15, 2006 Planning Commission meeting.

BACKGROUND:

At the May 16th Planning Commission meeting, staff was directed to bring this item for discussion at the June work session. This item was discussed at the June 18, 2006 work session. Commissioners requested additional information pertaining to three issues:

1. How would the ordinance address private party, non-commercial use of alcoholic beverages at commercial sites near schools?
2. How the 500-foot distance measurement between affected businesses and schools should be determined.
3. How would the ordinance affect alcoholic beverage sales at commercial sites located near future potential school sites?

The attached Version 1 reflects the original proposed amendment language. The attached Version 2 includes changes that address the above questions.

Private party, Non-Commercial Use: The existing ordinance states: “...a conditional use permit shall be required for all commercial establishments seeking to sell alcoholic beverages...for on-premises consumption within 500 linear feet of a school ...”

The original proposed amendment expanded this language, as follows: “...a conditional use permit shall be required for all commercial establishments seeking to sell alcoholic beverages..., or allowing the sale or service of alcoholic beverages for compensation, within 500 linear feet of a school...”

The question here is how the ordinance applies to the actions of private parties that rent a commercial facility, but independently offer alcoholic beverages at a function without compensation. If the intent is prohibit such actions, the wording can be changed to remove the term “for compensation,” as follows: “...a conditional use permit shall be required for all commercial establishments seeking to sell alcoholic beverages..., or allowing the sale or service of alcoholic beverages within 500 linear feet of a school...”

500-Foot Distance Measurement: The June 18th packet mistakenly omitted the part of the existing ordinance that addresses how the 500-foot distance measurement is determined. The existing ordinance states, in subsection (d): “The distances prescribed in this section shall be measured by extending a straight line from the nearest property line (not the lease line) of the establishment selling alcoholic beverages to the nearest property line of the school.”

The original proposed amendment would delete this language, since use regulations throughout the zoning ordinance apply to property, not the distance from a use located on a specific property, unless specified otherwise in the ordinance. The question here is how the ordinance determines the distance between the proposed use and an affected school. Distance measurements from the use instead of the property line are extremely difficult from an enforcement perspective since the point of sale or offering of alcoholic beverages can vary on any given site, and patrons can typically wander around such sites with drinks in hand. For consistency of enforcement, staff recommends that measurements for this ordinance be taken from the property line of the site accommodating such use. To clarify this intent, the following language is offered: “The distances prescribed in this section shall be measured by extending a straight line from the nearest property line (not the lease line) of the commercial establishment to the nearest property line of the school.”

Establishments Near Potential Future School Sites: The June 18th packet mistakenly omitted the part of the existing ordinance that already addresses this issue. The existing ordinance recognizes the vested rights of existing businesses offering alcoholic beverages, regardless of the future location of a school within 500 feet of such use. No change to this part of the ordinance is proposed.

Original Background Information

The existing ordinance, adopted in 1993, required approval of a conditional use permit for commercial establishments to sell alcoholic beverages for on-premises consumption within 500 feet of a school. This ordinance “grandfathered” alcoholic beverage sales for commercial establishments near schools that existed at the time the ordinance was adopted.

The ordinance was amended in 2004, to reflect school name changes. Further refinement of the ordinance is necessary at this time to address three specific issues:

- 1) Commercial establishments that do not directly sell alcoholic beverages near a school, but subcontract with other businesses, such as caterers, to offer this service;
- 2) Enforcement of “on-premises consumption” within 500 feet of certain schools in situations when a commercial establishment may operate on several different properties; and
- 3) Current business license procedures that no longer requiring planning review and approval of business licenses.

The proposed ordinance clarifies and addresses these issues, as follows:

Direct sales: the proposed ordinance would expand the existing restrictions on alcoholic beverage sales near certain schools, to include “*allowing the sale or service of alcoholic beverages.*” This new provision would restrict businesses that do not directly sell alcoholic beverages, but contract with other businesses to provide this service.

On-premises consumption: the proposed ordinance would eliminate the term “on-premises consumption.” As a result, the ordinance restriction would focus on the act of selling or allowing the sale of alcoholic beverages. This change would help avoid confusion in situations where a business operation may extend across several properties.

Business license applications: the proposed ordinance would reflect that the Planning Department no longer reviews business license applications. The Planning Department ceased formally reviewing business licenses applications several years ago in an effort to reduce the processing time for new businesses to work through the county system. Business license applicants are advised, but not required, to verify zoning restrictions when they apply for a business license. This change has resulted in significant customer service improvements to the business community. The proposed ordinance would reflect this changed business practice, and encourage consultation with the planning department to determine whether a conditional use permit would be required for the proposed business.

Proposed Ordinance: The proposed ordinance amendment (attached) would affect Section 19-227. The ordinance provisions would continue to apply only to properties within 500 feet of schools built after December 15, 1993. These schools include Carver Middle, Cosby High, James River High, Marguerite Christian Elementary, Matoaca High, and Spring Run Elementary.

If you have any questions regarding this information, please contact Carl Schlaudt, Planning Administrator, at 748-1519.

AN ORDINANCE TO AMEND THE CODE OF THE COUNTY OF CHESTERFIELD, 1997, AS AMENDED, BY AMENDING AND RE-ENACTING SECTION 19-227 RELATING TO THE SALE, OR SERVICE FOR COMPENSATION, OF ALCOHOLIC BEVERAGES NEAR SCHOOLS

BE IT ORDAINED by the Board of Supervisors of Chesterfield County:

(1) *That Section 19-227 of the Code of the County of Chesterfield, 1997, as amended, is amended and re-enacted to read as follows:*

Sec. 19-227. Sale of alcoholic beverages near schools.

(a) Notwithstanding any provisions in this chapter to the contrary, a conditional use permit shall be required for all commercial establishments seeking to sell alcoholic beverages, as defined in Code of Virginia, § 4.1-100, or allowing the sale or service of alcoholic beverages for compensation, for on-premises consumption, within 500 linear feet of a school that is owned or operated by the county and that is built after December 15, 1993.¹

¹ This section does not apply to the following schools: Bailey Bridge Middle, Bellwood Elementary, Bensley Elementary, Bermuda Elementary, Beulah Elementary, L.C. Bird High, Bon Air Elementary (IDC), Bon Air (Primary) Elementary, Chalkley Elementary, Chester Middle, Chesterfield Community High, Chesterfield Technical, Clover Hill Elementary, Clover Hill High, Thelma Crenshaw Elementary, Crestwood Elementary, Curtis Elementary, A.M. Davis Elementary, Dupuy Elementary (Ettrick Annex), Ecoff Elementary, Enon Elementary, Ettrick Elementary, Evergreen Elementary, Falling Creek Elementary, Falling Creek Middle, Fulgham Center, O.B. Gates Elementary, W.W. Gordon Elementary, Grange Hall Elementary, Greenfield Elementary, Harrowgate Elementary, J.G. Henning Elementary, Hopkins Elementary, Jacobs Elementary, Manchester High, Manchester Middle, Matoaca Elementary, Old Matoaca High, Matoaca Middle, Meadowbrook High, Midlothian Elementary (Swift Creek Middle Annex), Midlothian Middle, Midlothian High, Monacan High, Perrymont Middle, Providence Elementary, Providence Middle, Reams Elementary, Robious Elementary, Robious Middle, Salem Elementary, Salem Middle, Alberta Smith Elementary, Swift Creek Elementary, Swift Creek Middle, Thomas Dale High, Union Branch Elementary, Union Grove Elementary, Vehicle Maintenance (Courthouse), Vehicle Maintenance (Walmsley), J.B. Watkins Elementary, C.C. Wells Elementary, Winterpock Elementary, Woolridge Elementary.

(b) ~~As part of the regular review of all business license applications, the director of planning shall determine whether a commercial establishment intends to sell alcoholic beverages for on-premises consumption and whether it is located within 500 linear feet of a school built after December 15, 1993 that is owned or operated by the county. If the director of planning cannot determine whether the commercial establishment is located more than 500 linear feet from such school, the director of planning shall require, and the commercial establishment shall provide, a certification from a registered surveyor confirming the distance from the commercial establishment to the school. If the commercial establishment fails to provide the surveyor's certification, it shall be presumed that the establishment is within 500 linear feet of the school.~~

All applicants for a business license should consult with the director of planning to determine whether a conditional use permit is required per this section.

(c) No commercial establishment that holds a valid alcoholic beverage license from the Virginia Alcoholic Beverage Control Board at the time a school that is owned or operated by the county locates within 500 linear feet of the commercial establishment shall become a nonconforming use or be required to obtain a conditional use permit solely by virtue of the location of such school, so long as such license remains in force, is reissued as provided by law or, if such establishment is sold to a new owner, a valid license is issued to the new owner and such license remains in force or is reissued as provided by law.

(d) ~~The distances prescribed in this section shall be measured by extending a straight line from the nearest property line (not the lease line) of the establishment selling alcoholic beverages to the nearest property line of the school.~~

(2) *That this ordinance shall become effective immediately upon adoption.*

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